

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Virginia M. Kendall	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 1293	DATE	March 28, 2008
CASE TITLE	U.S. ex rel. Kirk Bintzler #01938-089 v. Wilson		

DOCKET ENTRY TEXT:

Petitioner, a federal prisoner, is given until April 25, 2008, to either pay the \$5 filing fee or file a petition for leave to file *in forma pauperis*. The clerk is directed to send petitioner an *in forma pauperis* application. Petitioner's "motion to waive five dollars filing fee due to poverty" is denied. [3] Further, he has failed to submit his petition on the court's form. Petitioner's petition is dismissed without prejudice to his submitting an amended petition. The clerk shall send him three copies of the court's amended petition form, and one copy of instructions. See L.R. N.D. Ill. 81.3(a). He must submit an original and two copies of his amended petition by April 25, 2008. Finally, petitioner's *ex parte* letter to Judge Coar, dated February 26, 2008, and an *ex parte* letter to Judge Kendall dated March 17, 2008, are both stricken.[4] & [6] Failure to comply with this order will result in dismissal.

■[For further details see text below.]

Docketing to mail notices.

STATEMENT

Although the clerk has accepted this *pro se* petition for a writ of habeas corpus for docketing pursuant to Rule 5(e) of the Federal Rules of Civil Procedure, petitioner has neither paid the \$5 filing fee nor filed a petition for leave to file *in forma pauperis*. If petitioner wishes to proceed with this action, he must either pay the \$5 filing fee or, in the alternative, file an *in forma pauperis* application complete with a certificate from a prison official stating the amount on deposit in the prisoner's trust account. Petitioner submitted a motion to waive the five dollar filing fee. This motion is denied. Petitioner must submit the *in forma pauperis* application so that the court can determine whether or not he must pay this fee.

Additionally, petitioner submitted two *ex parte* letters to the court. All submissions to the court must be in the form of a pleading with the case title and number and the name of the pleading at the top. No *ex parte* filings will be accepted. Petitioner must accompany all pleadings with a certificate of service, stating that he has served a copy of the pleading on the respondent or his attorney. Further, petitioner may not request what judge he wants to hear his case. Cases are assigned by the court according to local rules and not according to any party's wishes.

Finally, petitioner submitted only an original of this petition. Because he is a federal prisoner, it appears that he wishes to file a habeas corpus petition under 28 U.S.C. § 2241. Also, he failed to submit it on the court's form. He must submit an amended petition with a judge's copy and two copies for service on respondents by April 25, 2008. Petitioner is reminded that an amended petition completely replaces the original petition. The amended petition must be on the forms required under Local Rule 81.3(a) of this Court. The petitioner must write both the case number and the judge's name on the amended petition and return it to the Prisoner Correspondent. As with every document filed with the court, the petitioner must include the original plus a judge's copy; he must also provide a copy of the amended habeas petition for service on the attorney for respondents, in this case the U.S. Attorney's office. He should also save a copy for himself.

The amended petition replaces or supersedes the original petition. In other words, after the petitioner files an amended petition, the court will no longer consider the original petition. Grounds contained in the original petition will not be considered if they are not included in the amended petition. Therefore, the petitioner must include in his amended petition all grounds he wants the court to consider. Failure to comply with all aspects of this order by April 25, 2008, will result in dismissal.

Courtroom Deputy
Initials:

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